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 8 Attorney for Claimant, Rex Costales  
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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,	})	CASE NO.: 07CV2342LABJMA
11 Petitioner,	})	ANSWER TO COMPLAINT FOR
12 v.	})	FORFEITURE AND DEMAND
13 ONE RESIDENTIAL PROPERTY	})	FOR JURY TRIAL
14 LOCATED AT 30220 COOL VALLEY	})	
15 LANE, VALLEY CENTER, CA, AND	})	
16 ALL IMPROVEMENTS AND	})	
17 APPURTENANCES AFFIXED THERETO,)	})	
18 ONE RESIDENTIAL PROPERTY	})	
19 LOCATED AT 681 DOUGLAS AVENUE,	})	
20 SAN MARCOS, CA, AND ALL	})	
21 IMPROVEMENTS AND	})	
22 APPURTENANCES AFFIXED THERETO,)	})	
23 Defendants.	})	

24 COMES NOW the Claimant, REX COSTALES, and in answer to Plaintiff's Complaint for  
 25 Forfeiture, hereby responds, alleges, and otherwise pleads as follows:

- 26 1. Claimant admits the allegations contained in Paragraph 1 of the Complaint for  
 27 Forfeiture.
- 28 2. Claimant denies each and every allegations set forth in Paragraph 2 of the Complaint

1 for Forfeiture in the conjunctive as well as the disjunctive.

2       3.     Claimant denies each and every allegations set forth in Paragraph 3 of the Complaint  
3 for Forfeiture in the conjunctive as well as the disjunctive.

4       4.     Answering Paragraph 4 of the Complaint for Forfeiture, Claimant has no information  
5 or belief sufficient to enable him to answer the allegations contained therein, and basing his denial on  
6 that ground, denies each and every allegation contained therein in the conjunctive as well as the  
7 disjunctive.

8       5.     Claimant denies each and every allegations set forth in Paragraph 6 of the Complaint  
9 for Forfeiture in the conjunctive as well as the disjunctive.

10      6.     Claimant denies each and every allegations set forth in Paragraph 7 of the Complaint  
11 for Forfeiture in the conjunctive as well as the disjunctive.

12      7.     Claimant denies each and every allegations set forth in Paragraph 8 of the Complaint  
13 for Forfeiture in the conjunctive as well as the disjunctive.

14      8.     Answering Paragraph 9 of the Complaint for Forfeiture, Claimant has no information  
15 or belief sufficient to enable him to answer the allegations contained therein, and basing his denial on  
16 that ground, denies each and every allegation contained therein in the conjunctive as well as the  
17 disjunctive.

18      9.     Claimant denies each and every allegations set forth in Paragraph 11 of the Complaint  
19 for Forfeiture in the conjunctive as well as the disjunctive.

20      10.    Claimant denies each and every allegations set forth in Paragraph 12 of the Complaint  
21 for Forfeiture in the conjunctive as well as the disjunctive.

22      11.    Claimant denies each and every allegations set forth in Paragraph 13 of the Complaint  
23 for Forfeiture in the conjunctive as well as the disjunctive.

24      12.    Answering Paragraph 14 of the Complaint for Forfeiture, Claimant has no information  
25 or belief sufficient to enable him to answer the allegations contained therein, and basing his denial on  
26 that ground, denies each and every allegation contained therein in the conjunctive as well as the  
27 disjunctive.

28      13.    Claimant denies each and every allegations set forth in Paragraph 16 of the Complaint

<sup>1</sup> for Forfeiture in the conjunctive as well as the disjunctive.

2       14. Claimant denies each and every allegations set forth in Paragraph 17 of the Complaint  
3 for Forfeiture in the conjunctive as well as the disjunctive.

4       15. Claimant denies each and every allegations set forth in Paragraph 18 of the Complaint  
5 for Forfeiture in the conjunctive as well as the disjunctive.

6       16. Answering Paragraph 19 of the Complaint for Forfeiture, Claimant has no information  
7 or belief sufficient to enable him to answer the allegations contained therein, and basing his denial on  
8 that ground, denies each and every allegation contained therein in the conjunctive as well as the  
9 disjunctive.

**AFFIRMATIVE DEFENSE(S)**

## **FIRST AFFIRMATIVE DEFENSE**

12 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges the subject  
13 Amended Complaint as pled fails to state facts sufficient to constitute a cause of action against the  
14 defendant property.

## **SECOND AFFIRMATIVE DEFENSE**

16 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges Plaintiff  
17 lacked probable cause for the institution of this forfeiture action.

### THIRD AFFIRMATIVE DEFENSE

19 For a further and separate answer to the Complaint for Forfeiture, Claimant alleges that the  
20 forfeiture in this case is disproportionate, and is a violation of the Eighth Amendment to the United  
21 States Constitution.

#### **FOURTH AFFIRMATIVE DEFENSE**

For a further and separate answer to the Complaint for Forfeiture, Claimant alleges that the searches which led to this forfeiture action, including but not limited to any electronic surveillance utilized in the investigation leading to said forfeiture action, violated the Fourth Amendment to the United States Constitution.

**JURY DEMAND**

28 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and general federal law,

1 Claimant demands a trial by jury in connection with the subject action.

2 WHEREFORE, Claimant prays for judgment as follows:

- 3 1. That the Complaint for Forfeiture be dismissed with prejudice;
- 4 2. That the subject property be returned to Claimant;
- 5 3. For reasonable attorney's fees herein and costs of suit; and
- 6 4. For such other and further relief as the Court may deem just.

7 DATED: 1-19-08



RANDALL T. PAGE, ESQ.

9 Attorney for Claimant  
10 REX COSTALES

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## PROOF OF SERVICE

**STATE OF CALIFORNIA, COUNTY OF SAN DIEGO**

I am employed with the law firm of PAGE, LOBO, COSTALES & PRESTON, A.P.C., whose address is 24910 Las Brisas Road, Suite 102 Murrieta, CA 92562. I am over the age of eighteen, and I am not a party to this action.

On January 22, 2008, I caused service of the Answer to Complaint for Forfeiture and Demand for Jury Trial on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies said parties:

1. Karen P. Hewitt, United States Attorney, Attorney for Plaintiff
  2. David M. McNees, Special Assistant U.S. Attorney, Attorney for Plaintiff

Date: January 22, 2008

Rebekah Brasee  
**REBEKAH BRASEE**